

CHAPTER 11

EQUAL EMPLOYMENT OPPORTUNITY REPORTING REQUIREMENTS

I. INTRODUCTION

This chapter of the Management Directive contains the Equal Employment Opportunity Commission's (EEOC) guidance and instructions for the preparation and submission of annual reports on Federal pre-complaint counseling, formal complaint processing and disposition of Federal EEO complaints.

The provisions of this section apply to all Federal agencies and departments covered by 29 C.F.R. § 1614.103(b) and (c). The EEOC is authorized by 42 U.S.C. § 2000e-16 to collect Federal complaints processing data.

The analyses of the data collected enable the EEOC to assist in refining the efficiency and effectiveness of the Federal EEO process. Every effort should be made to ensure accurate recordkeeping and reporting of federal EEO data and that all data submissions are fully responsive and in compliance with information requests.

II. PROCEDURAL REQUIREMENTS

The EEOC will collect federal pre-complaint and complaint processing data and disposition data annually, as prescribed by Commission regulations at section 1614.602. Federal agencies and departments are required to provide EEO complaints data on a form prescribed by the EEOC. Section 1614.602. See Attachment A to this chapter.

The heads of all covered Federal agencies and departments with 100 or more employees are responsible for submitting annual Fiscal Year reports, including counseling data from all organizational components under their jurisdiction, to the EEOC not later than October 31st of each year.

Heads of all Federal agencies with less than 100 employees are responsible for maintaining data on pre-complaint counseling and formal complaints and for submitting this information to EEOC if requested.

Agencies and departments that are covered and had no EEO complaint activity are required to submit negative reports. All reports under the reporting requirements of 29 C.F.R. Part 1614 will begin with the report for Fiscal Year 1992.

The report, EEOC Form 462, data submissions and inquiries concerning the report should be directed to:

Equal Employment Opportunity Commission
Office of Federal Operations
Federal Sector Programs
Complaints Adjudication Division
P.O. Box 19848
Washington, D.C. 20036
Telephone: Local (202) 663-4515
(FTS) 8-202-663-4842
TDD: (202) 663-4053

III. INSTRUCTIONS FOR COMPLETING EEOC FORM 462

EEOC Form 462 is divided into nine parts. Agencies should report the discrimination complaint processing statistics for INDIVIDUAL COMPLAINTS OF DISCRIMINATION only on the Form 462. Information must be reported for all categories in each part. If there was no activity, a zero should be entered in the appropriate spaces. The instructions for completing the report are as follow:

Part I. SUMMARY OF PRE-COMPLAINT COUNSELING ACTIVITIES

1. TOTAL NUMBER OF INDIVIDUALS COUNSELED THIS REPORTING PERIOD

Report the number of individuals who received pre-complaint counseling for the reporting period. This total should include the number counseled according to the requirements at 29 C.F.R. 1614.105, and reported separately:

a. NUMBER COUNSELED WHERE COUNSELING WAS COMPLETED WITHIN 30 DAYS

Report the number of individuals counseled under section 1614.105 within the 30 day time limit.

b. NUMBER COUNSELED WITHIN 60-DAY EXTENSION

Report the number of individuals counseled under the provision for an additional 60-day extension, as provided at 1614.105(2)(e).

c. NUMBER COUNSELED THROUGH AGENCY DISPUTE RESOLUTION PROCEDURES (DRP)

Report the number of individuals electing an established dispute resolution procedure pursuant to section 1614.105(2)(f).

d. NUMBER COUNSELED ON REMAND

Report the number of individuals counseled on issues remanded to the agencies where the EEOC administrative judge at the hearing stage determined that a complainant raised or intended to pursue issue(s) like or related to the complaint, as provided at 1614.109(a).

FORMULA FOR THE TOTAL:

Part I. 1.(a)., number counseled within 30 days plus (+), Part I. 1.(b), number counseled with an additional 60 day extension plus (+), Part I. 1.(c), number counseled through Agency's Dispute Resolution Procedure (DRP), plus (+) number counseled on remand equals (=) total number of individuals counseled this reporting period.

Part II. SUMMARY OF FORMAL COMPLAINT ACTIVITIES**1. COMPLAINTS ON HAND AT THE END OF THE PRIOR REPORTING PERIOD**

Report the number of complaints in the agency complaint inventory at the end of the previous fiscal year. The complaint inventory includes complaints in any administrative processing stage prior to dismissal or a final decision. This number should include remands from EEOC for completion of investigations and other reinstatements.

2. COMPLAINTS ON HAND AT THE BEGINNING OF THE REPORTING PERIOD

Report the number of complaints filed with the agency in any administrative processing stage which are on hand at the beginning of the fiscal year. Because there is no lapse of time between the end of the previous fiscal year and the beginning of a new fiscal year, numbers for Part II, (1) and (2) should be the same.

Exceptions:

(1) If a complaint that was previously dismissed during the reporting period is remanded to the agency to complete the investigation, or reinstated during the reporting period, the number of complaints on hand at the

beginning of the reporting period should be adjusted upward accordingly. An explanation should be provided in the space for comments on the Form 462.

(2) If any complaints have been consolidated during the reporting period, the number of complaints on hand at the beginning of the reporting period should be adjusted downward accordingly and an explanation provided in the space for comments on the Form 462.

3. COMPLAINTS FILED THIS REPORTING PERIOD

Report the number of formal complaints filed during the reporting period, in accordance with section 1614.106.

4. REMANDS

Report the number of complaints that were remanded to the agency for further administrative processing. This number should include: (a) complaints remanded to the agency for counseling of like or related issues provided at 1614.109(a); (b) complaints on appeal remanded to the agency for supplemental investigations; and (c) complaints remanded to the agency for other processing as ordered by the EEOC.

5. COMPLAINTS CLOSED THIS REPORTING PERIOD

Report the number of complaints closed by dismissal, withdrawal, settlement, and final decision on the merits during the reporting period. Dismissals are covered by section 1614.107(a)-(h).

Note: A complaint should be reported as closed only when all issues are closed by any pre-appellate closure categories, i.e., dismissal, withdrawal, settlement, and final decision.

6. FORMAL COMPLAINTS ON HAND AT THE END OF THIS REPORTING PERIOD.

Report the number of complaints remaining in the EEO complaint inventory at the end of this reporting period.

FORMULA FOR THE TOTAL:

Part II. 2. Number of complaints on hand beginning of reporting period, plus (+) Part II. 3. Number of complaints filed, plus (+) Part II. 4. Remands, minus (-) Part II. 5. Complaints closed, equal (=), Part II. 6. Complaints open at the end of this reporting period.

Part III. AGENCY WORK FORCE AND EEO RESOURCES

1. AGENCY PERMANENT WORK FORCE

Report the total number of full-time and part-time career employees on board at the end of the fiscal year.

2. NUMBER OF EEO COUNSELORS

Report the number of agency personnel designated for EEO counseling at the end of the reporting period.

a. FULL-TIME

Report a subtotal for full-time counselors. Employees performing EEO counseling duties full-time means those working 40 hours per week.

b. PART-TIME

Report a subtotal for part-time counselors. Employees performing EEO counseling duties part-time means those working less than 40 hours per week.

c. COLLATERAL DUTY

Report a subtotal for collateral duty EEO counselors. EEO counseling is not a primary job duty.

3. NUMBER OF INVESTIGATORS

Report the number of agency personnel designated for EEO investigations at the end of the reporting period.

a. FULL-TIME

A subtotal must be reported for those that are full-time (work week is 40 hours).

b. PART-TIME

A subtotal must be reported for part-time (work week is less than 40 hours).

c. COLLATERAL DUTY

Those that are collateral duty investigators (EEO investigation duty is not a primary job duty).

4. NUMBER OF COUNSELORS/INVESTIGATORS

Report the number of agency personnel designated for counselors/investigators at the end of the reporting period.

a. FULL-TIME

Report a subtotal for full-time counselors/investigators (work week is 40 hours).

b. PART-TIME

Report a subtotal for those part-time counselors/investigators (work week is less than 40 hours).

c. COLLATERAL DUTY

Report a subtotal for collateral duty counselors/investigators, (EEO counselor/investigator is not a primary job duty).

Part IV. SUMMARY OF BASES AND ISSUES IN COMPLAINTS FILED

Report the number of bases and issues alleged in all formal complaints filed during the reporting period.

Issues involving Equal Pay Act violations and sexual harassment should be based on sex (Male and/or Female) and reprisal only. All other bases under these issues are inappropriate.

Terminations involving reduction-in-force action should be reported under the "other" category under disciplinary action to distinguish this from other terminations.

Note: Where two or more bases and/or issues are included in a single complaint, be sure to record each basis and/or issue alleged in a complaint in the appropriate column(s). Because complainants often include more than one basis and/or issue in a complaint, the number of bases and issues will not be equal to the number of individual complaints filed during the reporting period.

Part V. SUMMARY OF CLOSED COMPLAINTS BY STATUTE

Report the combined number for all statutory bases, i.e., Title VII, Age Discrimination in Employment Act (ADEA), Section 501 of the Rehabilitation Act, and Equal Pay Act (EPA).

Note: This number will be larger than the total number of closures because a single complaint may allege a violation of more than one statute.

Provide the number of complaints closed by each statute as indicated in Part V.(A) 1. Title VII, 2. Age Discrimination in Employment Act (ADEA), 3. Rehabilitation Act, and 4. Equal Pay Act (EPA) on the Form 462.

Note: Where two or more statutory bases are contained in a single complaint, be sure to record each statutory basis in the appropriate column. The number of complaints by statutory bases will be larger than the number of complaints closed during the reporting period.

Part V. 1. Column (B) - Title VII:

Report the number of closed complaints that contained Title VII bases (race, color, sex, national origin, and religion).

Part V. 2. Column (B) - Age Discrimination in Employment Act (ADEA):

Report the number of closed complaints that contained age discrimination basis (persons age 40 and older).

Part V. 3. Column (B) - Section 501 of the Rehabilitation Act:

Report the number of closed complaints that contained handicap discrimination basis.

Part V. 4. Column (B) - Equal Pay Act (EPA):

Report the number of closed complaints that contained an equal pay basis.

Part VI. SUMMARY OF CLOSURES BY AGENCY

A. TOTAL NUMBER OF CLOSURES

Column (A) TOTAL NUMBER OF CLOSURES

Report the combined number of complaints closed in all closure categories: (1) Dismissals, (2) Withdrawals, (3) Settlements, and (4) Final Decisions.

The combined and the total number for each type of closure, i.e., Dismissals, Withdrawals, Settlements, Final Agency Decisions (with and without a hearing) must be reported for all complaints closed during the reporting period.

NOTE: In the case where two or more issues were closed in a single complaint by more than one type of closure, the agency can record it in the category it determines is most important for the case.

FORMULA FOR THE TOTAL:

Part VI.B.1. Dismissal plus (+) Part VI.B.2. Withdrawals plus (+) Part VI.B.3. Settlements plus (+) Part VI.B.4. Final Decisions equal (=) Part VI.A. Total Closures.

Column (B) TOTAL NUMBER OF DAYS

Report the total number of days for processing complaints closed during this reporting period, from date filed to date closed for each type of closure, i.e., Dismissal, Withdrawal, Settlement, and Final Decision.

Column (C) AVERAGE NUMBER OF DAYS FROM FILING TO
CLOSURE

Report the average number of days for processing complaints this reporting period, from date filed to date closed for each type of closure, i.e., Dismissal, Withdrawal, Settlement, and Final Decision.

FORMULA FOR THE TOTAL:

Part VI.(B) divided (\div) by Part VI.(A) equals ($=$) Part VI.(C), Average Number of Days From Filing to Closure.

INSTRUCTIONS FOR AVERAGE NUMBER OF DAYS COMPUTATIONS

In order to assist with correctly computing the average number of days for the total closures and the individual types of closures, please note that Part VI(A), (B) and (C) computations should be done as illustrated below:

(EXAMPLE)

Type of Closure	(A) Total Number of Closures This Reporting Period	Divided into (÷)	(B) Total Number of Days From Filing	Equals (=)	(C) Average Number of Days from Filing to Closure
Dismissals	20		1,000		50
Withdrawals	45		20,405		453.4
Settlements	10		2,005		201
Final Agency Decisions on Merits	35		17,635		503.8
Total	110		41,045		356.9

B. NUMBER OF CLOSURES BY CATEGORY

1. Definition: Dismissals - Report the number of complaints dismissed under the provisions at 29 C.F.R. § 1614.107. The agency shall dismiss a complaint or part of a complaint:

- (a) that fails to state a claim under section 1614.103 or section 1614.106(a) or states the same claim that is pending before or has been decided by the agency or Commission;
- (b) that fails to comply with the applicable time limits contained in sections 1614.105, 1614.106 and 1614.204(c), unless the agency extends the time limits in accordance with section 1614.604(c), or that raises a matter that has not been brought to the attention of a counselor and is not like or related to a matter that has been brought to the attention of a counselor;
- (c) that is the basis of a pending civil action in a United States district court in which the complainant is a party provided that at least 180 days have passed since the filing of the administrative complaint, or that was the basis of a civil action decided by a United States district court in which the complainant was a party;
- (d) where the complainant has raised the matter in a negotiated grievance procedure that permits allegations of discrimination or in an appeal to the Merit Systems Protection Board and section 1614.301 or section 1614.302 indicates that the complainant has elected to pursue the non-EEO process;
- (e) that is moot or alleges that a proposal to take a personnel action, or other preliminary step to taking a personnel action, is discriminatory;
- (f) where the complainant cannot be located, after reasonable efforts have been made to locate the complainant and the complainant has not responded within 15 days to a notice of proposed dismissal sent to his or her last known address;
- (g) where the agency has provided the complainant with a written request to provide relevant information or otherwise proceed with the complaint, and the complainant has failed to respond to the request within 15 days of its receipt or the complainant's response does not

address the agency's request, provided that the request included a notice of the proposed dismissal. Instead of dismissing for failure to cooperate, the complaint may be adjudicated if sufficient information for that purpose is available; or

- (h) if, prior to the issuance of the notice required by section 1614.108(f), the complainant refuses within 30 days of receipt of an offer of settlement to accept an agency offer of full relief containing a certification from the agency's EEO Director, Chief Legal Officer or a designee reporting directly to the EEO Director or the Chief Legal Officer that the offer constitutes full relief, provided that the offer gave notice that failure to accept would result in dismissal of the complaint. An offer of full relief is that which is appropriate relief in section 1614.501.

- 2. Withdrawals - Report the number of complaints that were withdrawn. Withdrawals include only those complaints in which the complainant initiated the action to terminate the administrative processing after filing a formal complaint.

Withdrawals with voluntary resolution and corrective action should be reported in Part VI.B.3 as settlements.

- 3. Settlements - Report the number of complaints that were resolved through settlement. A settlement is an adjustment, formal or informal, of a complaint and should be in the form of a written agreement signed by the complainant and the agency.
- 4. Final Decisions Issued by the Agency - Report the number of final decisions issued by the agency with a hearing and without a hearing (i.e., recommended findings from EEOC Administrative Judge). The final decision is a finding on the merits of discrimination or no discrimination.

Only the agency decisions reported in VI.B.4. above need to be tabulated Do not include the decisions to dismiss or the withdrawals and settlements, reported in VI.B.1., 2., and 3.

The method for calculating this number is: Add the totals of Part VI.B.4(a) Finding Discrimination to Part VI.B.4(b) Finding No Discrimination.

- (a) Report a subtotal of all final decisions on the merits issued by the agency, with and without a hearing, finding discrimination, Part VI.B.4.(a) on the Form 462.
- (b) Report a subtotal of all final decisions issued by the agency, with and without a hearing, finding no discrimination, Part VI.B. 4.(b) on the Form 462.

FORMULA FOR THE TOTAL:

Part VI.B.4.(a) (Finding Discrimination) plus (+) Part VI.4.(b) (Finding no Discrimination) equal (=) Part VI.B.4., Final Agency Decisions.

C. TYPES OF FINAL AGENCY DECISIONS

Report the total number for all final agency decisions.

This number should be the same as reported in Part VI.B.4.

1. FINAL AGENCY DECISION WITHOUT A HEARING

- (a) Report the total number of final decisions on the merits issued by the agency finding discrimination where there has been no recommended findings and conclusions from the EEOC.
- (b) Report the total number of final agency decisions on the merits finding no discrimination, where there have been no recommended findings and conclusions from the EEOC.

2. FINAL DECISION WITH A HEARING BY EEOC ADMINISTRATIVE JUDGE - Report the number of:

- a. Agency actions taken on recommended findings and conclusions from EEOC finding discrimination.

Report the number of recommended findings and conclusions from EEOC administrative judges' recommended findings of discrimination on which the agency acted by indicating how many instances those findings were:

1. accepted as the agency decision,
2. modified by the agency or
3. rejected by the agency

- b. Agency action taken on recommended findings and conclusions from EEOC finding no discrimination.

Report the number of recommended findings and conclusions from EEOC administrative judges' findings of "No Discrimination" on which the agency acted by indicating how many instances those findings were:

1. accepted as the agency decision,
2. modified by the agency or
3. rejected by the agency

Note: If there is an instance where a recommended finding of discrimination or no discrimination is accepted, modified, or rejected in part, the agency can record it in the category it determines is the most important for the case.

Part VII. SUMMARY OF COMPLAINTS CLOSED WITH CORRECTIVE ACTION
UP TO AND INCLUDING FINAL DECISION BY THE AGENCY

1. TOTAL NUMBER OF COMPLAINTS CLOSED WITH CORRECTIVE
ACTION THIS REPORTING PERIOD

Report the total number of complaints closed with corrective action. In the instance where a single case contains more than one corrective action, count each corrective action separately in the appropriate designated category.

Do not include corrective action taken pursuant to a Commission or Office of Federal Operations appellate order.

2. AMOUNT OF BACK PAY AWARDED THIS REPORTING PERIOD

Report the total dollar amount of back pay granted to complainants during the reporting period.

3. ATTORNEY'S FEES AND COSTS AWARDED

Report the total dollar amount awarded for attorney's fees and costs during the reporting period.

4. TYPES OF CORRECTIVE ACTION

Report the total number of complaints closed with corrective action. The number should be reported for each category of resolutions and corrective action as listed on the Form 462, Part VII. D. and indicate how many such actions included or did not include an award of back pay.

Note: Several types of resolutions and corrective action may be applicable for each complaint, and each should be entered in the appropriate column. This total will be more than the total number of complaints closed.

Part VIII. SUMMARY OF OPEN EEO COMPLAINTS INVENTORY
PENDING AT THE END OF THE REPORTING PERIOD

1. TOTAL NUMBER OF OPEN EEO COMPLAINTS PENDING IN
INVENTORY AT THE END OF THE REPORTING PERIOD.

Report the total number of open complaints left in the inventory for processing at the end of the reporting period in column 1.(A); the total number of days in processing, i.e. from date filed to end of the reporting fiscal year (September 30th) in column 1.(B); the average number of days from filing to end of fiscal year (September 30th) in column 1.(C); pending 1-180 days in column 1.(D); 181-365 days in column 1.(E); pending 366-720 days in column 1.(F); and over 720 days in column 1.(G).

FORMULA FOR PART VIII 1. COLUMN (C): Part VIII 1.(B) divided (\div)
Part VIII 1.(A) = Part VIII 1.(C)

2. TOTAL NUMBER OF OPEN COMPLAINTS PENDING BY CATEGORY.

a. Written Acknowledgement of Receipt (Notification of Acceptance for
Processing or Dismissal)

Report the total number of open complaints pending written acknowledgement of receipt (with notification of acceptance for processing or dismissal) in inventory in Column 2a.(A); the total number of days in processing; i.e., from date filed to end of fiscal year (September 30th) in column (B); the average number of days from date filed to end of fiscal year (September 30th) in Column (C); pending 1-180 days in Column (D); pending 181-365 days in Column (E); 366-720 days in Column (F) and over 720 days in Column (G).

b. INVESTIGATION

Report the total number of open complaints pending in Column (A); the total number of days in processing; i.e., from date filed to end of fiscal year (September 30th) in Column (B); and the average number of days from date filed to end of fiscal year (September 30th) in Column (C); pending 1-180 days in Column (D); pending 181-365 days in Column (E); 366-720 days in Column (F) and pending over 720 days in Column (G).

c. HEARINGS

Report the total number of open complaints pending hearings in Column (A); the total number of days in processing; i.e., from date filed to end of fiscal year (September 30th) in Column (B); the average number of days from date filed to end of fiscal year (September 30th) in Column (C); pending 1-180 days in Column (D); pending 181-365 days in Column (E); pending 366-720 days in Column (F); and over 720 days in Column (G).

d. FINAL DECISION BY THE AGENCY

Report the total number of open complaints pending Final Decision by the agency in column (A); the total number of days in processing; i.e., from date filed to end of fiscal year (September 30th) in column (B); the average number of days from date filed to end of fiscal year (September 30th) in column (C); pending 1-180 days in column (D); pending 181-365 days in column (E); pending 366-720 days in column (F); and pending over 720 days in column (G).

Part IX. SUMMARY OF ACTIVITY FOR COMPLETED INVESTIGATIONS**1. NUMBER OF INVESTIGATIONS COMPLETED THIS REPORTING PERIOD.**

Report the total number of all investigations completed by agency personnel and investigations contracted out.

a. NUMBER OF INVESTIGATIONS COMPLETED BY AGENCY PERSONNEL

Report the number of investigations completed by agency personnel separately in column (A); the total number of days to complete investigations for complaints from date assigned for investigation to date investigation was completed, in column (B); and the average number of days to complete the investigations.

b. NUMBER OF INVESTIGATIONS COMPLETED CONTRACTED OUT.

Report the number of investigations contracted out separately in column (A); the total number of days it took to complete the investigation(s) in column (B); and the average number of days from assignment to date investigation was completed.

FORMULA FOR THE TOTAL:

Part IX.1.a plus (+) Part IX.1.b equal (=) Part IX.1.

2. NUMBER OF INVESTIGATIONS COMPLETED AND NOTICES ISSUED WITHIN 180 DAYS.

Report the total number of investigations completed and notices issued within 180 days as required at 1614.108(e) during the reporting period in column 2(A); total number of days for completion, i.e., date filed or within

time period contained in an EEOC Order on an appeal to date of notice, in column 2(B); and average number of days for completion.

NOTE: The average days should be derived by dividing the total number, column (A) into the total number of days, column (B).

FORMULA: $\text{Part IX 2.(B)} \div \text{Part IX 2.(A)} = \text{Part IX 2.(C)}$.

3. NUMBER OF INVESTIGATIONS COMPLETED AND NOTICES ISSUED AFTER ADDITIONAL EXTENSION OF UP TO 90 DAYS.

Report the total number of investigations completed and notices issued up to an additional 90-day extension, i.e., up to a total of 270 days, as provided at 1614.108(e), during the reporting period, in column 3(A); total number of days for completing the investigations, counting from the date filed or from the date or time period contained in an EEOC Order on an appeal, to the date of notice in column 3(B); and average number of days for completion.

NOTE: The average number of days should be derived by dividing the total number of investigations, column 3(A) into the total number of days, column 3(B).

FORMULA: $\text{Part IX 3.(B)} \div \text{Part IX 3.(A)} = \text{Part IX 3.(C)}$.

4. NUMBER OF INVESTIGATIONS COMPLETED AND NOTICE ISSUED IN EXCESS OF 270 DAYS.

Report the total number of investigations completed and notices issued in excess of 270 days during the reporting period in column 4(A); total number of days for completing the investigations, i.e., from date filed or within time period of an EEOC Order on an appeal to date of notice in column 4(B); and the average number of days for completion.

NOTE: The average number of days should be derived by dividing column 4.(A); Total number into column 4.(B); Total number of Days.

FORMULA: $\text{Part IX 4.(B)} \div \text{Part IX 4.(A)} = \text{Part IX 4.(C)}$.

5. TOTAL DOLLAR AMOUNT SPENT FOR ALL INVESTIGATIONS.

Report the total amount spent on all investigations (i.e., investigations completed by agency personnel and investigations contracted out during this reporting period.

- a. Amount spent on investigations completed by agency personnel.

Report the amount spent on investigations completed by agency personnel. The dollar amount reported should include salaries.

- b. Amount spent on contracted investigations

COMMENTS:

Space is provided at the end of the EEOC Form 462 for any explanations and/or comments concerning the reported data in any Part (I-VI) of the form.

NAME AND TITLE OF PREPARER:

The preparer's name, title and telephone number should be provided so EEOC can contact the individual and office within the agency who is most familiar with the data included on the Form 462, if necessary. The EEOC Form 462 should also be dated and signed by the preparer.